

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TED LAWRENCE ROBERTSON,
TDCJ #1175868,

Petitioner,

V.

DOUG DRETKE, Director,
Texas Department of Criminal Justice -
Correctional Institutions Division,

Respondent.

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CIVIL ACTION NO. H-05-1028

ORDER


State inmate Ted Lawrence Robertson has filed a petition for a federal writ of habeas corpus under 28 U.S.C. § 2254. The respondent's answer is not yet due. Robertson has filed a motion asking the Court to vacate an order entered on June 2, 2005, denying his requests for discovery in this case pursuant to Rule 6 of the Rules Governing § 2254 Cases in the United States District Courts. The motion is denied for reasons set forth briefly below.

Robertson argues that the Court's order regarding discovery should be vacated because the Federal Rules of Civil Procedure allow discovery without leave of court. However, the Federal Rules of Civil Procedure apply in a federal habeas corpus proceeding only to the extent that they are not inconsistent with the Rules Governing § 2254 Cases in the United States District Courts. *See* Rule 11 of the Rules Governing § 2254 Cases in the United States District Courts. Rule 6 of the Rules Governing § 2254 Cases authorizes discovery in a habeas corpus proceeding only with court approval. Because Robertson has

not established that he is entitled to discovery under Rule 6, it is **ORDERED** that his motion (Docket Entry No. 15) is **DENIED**.

The Clerk will provide copies of this order to the parties.

SIGNED at Houston, Texas, on **June 22, 2005**.



Nancy F. Atlas
United States District Judge